

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Terrance Donell Woodruff,)	C/A No.: 1:11-2967-CMC-SVH
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Lt. Hambrick,)	
)	
Defendant.)	
)	

Plaintiff, proceeding *pro se* and in forma pauperis, brought this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights while incarcerated at Allendale Correctional Institution. This matter is before the court on Plaintiff's motion for subpoena [Entry #38] filed on March 16, 2012. All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.).

Plaintiff's motion for subpoena requests a subpoena in order to secure the presence of a witness at a hearing in this case. Although a subpoena is the proper method for compelling attendance of a witness at trial, Plaintiff has failed to provide the proper form or the necessary witness fees. There is no requirement under 28 U.S.C. § 1915 that the court pay costs incurred with regard to a subpoena such as witness fees. *See Badman v. Stark*, 139 F.R.D. 601, 604 (M.D. Pa. 1991) (inmates proceeding under 28 U.S.C. § 1915 are not entitled to have their discovery costs underwritten or waived); *see also United States Marshals Serv. v. Means*, 741 F.2d 1053, 1057 (8th Cir. 1984) (holding that 28 U.S.C. § 1915(c) does not require government payment of witness fees and costs for

indigent plaintiffs in § 1983 suits); *Johnson v. Hubbard*, 698 F.2d 286, 288–91 & nn. 2–5 (6th Cir. 1983) (lower courts have no duty to pay fees to secure depositions in civil, non-habeas corpus cases), *cert. denied*, 464 U.S. 917 (1983). If Plaintiff wishes to obtain a subpoena, he may do so by contacting the Clerk of Court and providing the Clerk's office with a completed Form AO 88 (Subpoena in a Civil Case), together with the necessary witness fees. Plaintiff will have ample time to submit the same after a trial date is set. Therefore, Plaintiff's motion for subpoena [Entry #38] is denied at this time with leave to re-file after he has tendered a properly completed AO 88 form and the necessary witness fees.

IT IS SO ORDERED.



March 20, 2012
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge